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COMMISSIONERS
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DR. LEOLA ADAMS, 2ND DISTRICT
FRANCES DANIEL, 5TH DISTRICT

(803) 758-7408
Room 116, 1026 Sumter Street
P.O. BOX 11627
COLUMBIA, S.C. 29211

GARY R. BAKER
EXECUTIVE DIRECTOR

State of South Carolina State Ethics Commission

NEWSLETTER

JANUARY 1980

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OCT 15 1980

NO. 80-003

STATE DOCUMENTS

FILING DEADLINE APPROACHES

April 15 is the deadline for the annual filing of the Statement of Economic Interests by all elected officials, regardless of their compensation, and those appointed officials and public employees with a present annual compensation rate of \$20,000 or more. Forms for filing may be obtained from the chief agency administrator, the County Clerk of Court, or the State Ethics Commission.

CANDIDATES

Candidates are reminded that a Statement of Economic Interests must be filed within twenty days after the declaration of candidacy or petition to appear on the ballot is filed. Failure to file the Statement of Economic Interests within the twenty days may result in the candidate's name not appearing on the election ballot.

CANDIDATES AND COMMITTEES

All candidates and committees supporting candidates are reminded of the provisions of the State Ethics Act requiring a Campaign Disclosure Form to be filed within thirty days after each election. They are also reminded that a listing of all contributors of more than \$100 must be available upon request during the two-week period prior to each election.

Candidates and committees report the amount of all income and expenditures while itemizing those contributions of more than \$100 and all expenditures. Forms are available from the County Clerk of Court or the State Ethics Commission.

COMPLAINT ACTIONS

The Commission has referred three complaint actions to the Attorney General's Office for appropriate action. At the Commission's October 16, 1979 meeting, Julian Richardson, Chairman of the Horry County Council, was found to have violated the State Ethics Act in using his position as County Council Chairman to have a water line run to his residence by employees of the Grand Strand Water and Sewer Authority without reimbursement to the Authority. Materials and equipment were also allegedly utilized.

At the Commission's November 20 meeting, a hearing was conducted into a voting matter in which Dorchester County Councilman, George P. Knight, voted on a salary increase for his wife. At the hearing, Mr. Knight did not contest the allegations.

Lee Stewart Ingerman of Columbia an ex-Food Services Supervisor of the S. C. Day Care Project, was found to have violated the State Ethics Act in converting approximately \$731.00 of goods to his own use. At a hearing conducted January 15, 1980, Ingerman did not contest the allegations made in the complaint.

ELEVEN OFFICIALS CITED FOR VIOLATING ACT

"The Commission found that eleven officials violated the Act by failing to file the Statement of Economic Interests prior to the April 15 deadline," Gary Baker, Commission Executive Director said. The State Ethics Act requires that all elected officials file the statements annually.

Named by the Commission as having violated the State Ethics Act were:

- Daniel Barwick, Mayor of Pinewood
- Earlene Duncan, Gifford City Council
- Melvin Fludd, City of Charleston School Bd.
- James T. Gibson, Ward City Council
- Robertson Gilchrist, McCormick County Council
- Helen Laston, Gifford City Council
- James Risher, Mayor of Gifford
- J. Ansel Snipes, West Pelzer Alderman

- Alice Snyder, Vance City Council
- Robert H. Young, Laurens County School Bd.
- Robert L. Young, Mayor of Cottageville

Hearings on the complaints, which were filed by Baker, were conducted on November 19, 1979. The Commission referred the complaints on Barwick, Duncan, Fludd, Laston, Risher, and Snyder to Attorney General Daniel McLeod for appropriate action, ac-

according to Baker. The Mayor of Gifford also received the complaints on Duncan and Laston. The complaints involving Mayors Barwick and Young were referred to Governor Richard Riley. County Councilman Gilchrist's violation was sent to the Chairman of the McCormick County Council, while the Gibson violation was referred to the Mayor of Ward Baker said.

Of the eleven complaints, all but three filed the Statement of Economic Interests after the complaints were filed. Three, Barwick, Snyder, and Fludd still had not filed as of January 21, according to Baker. "Violating the State Ethics Act can result in a fine up to \$1,000 up to 90 days imprisonment, or both," he said.

***** UNSURE OF THE EFFECT OF THE STATE ETHICS ACT?

Any public official, public employee, candidate for public office, or any person to whom the State Ethics Act might reasonably be expected to apply may request a formal advisory opinion from the State Ethics Commission. Any request for an advisory opinion must be in writing, detailing as fully as possible the real or hypothetical circumstances of a situation. The Commission staff prepares a draft response for approval by the Commission at its regular monthly meeting. The opinion is discussed in open session and voted upon by the Commission members with a written opinion being provided to the requestor.

Any advisory opinion issued by the Commission is binding upon the Commission in any subsequent charges against the person who requested the opinion and acted on it in good faith, unless material facts are omitted or misstated.

***** GUIDELINES FOR CONDUCTING BUSINESS WITH ONE'S OWN AGENCY

A public official or public employee may engage in business with his own agency if:

- (1) The business to be conducted is contracted through a process of public notice and competitive bidding.
- (2) The official or employee is not involved in the contract-letting or the writing of the contract specifications.
- (3) The public official or employee takes no part in the action or decision concerning the contracting of the business.
- (4) The business to be conducted is not done on the official's public working time.
- (5) The provision of such goods or services is not part of the official's normal responsibilities.
- (6) The activity is not prohibited by other State or local statutes.
- (7) The activities do not create a conflict with the official's or employee's normal working responsibilities.

***** OFF-DUTY EMPLOYMENT

A question which has been raised in several advisory opinions is the effect of the State Ethics Act on off-duty employment. These opinions have stated generally that an employee's off-duty hours

are his own to use as he sees fit, within certain guidelines:

- (1) Such activities are not part of the employee's normal position responsibilities.
- (2) The activities are performed during other than the employee's normal working hours.
- (3) Such activities are performed without the use of public materials or equipment.
- (4) The activities do not conflict with the employee's official position responsibilities, impair independence in judgment or otherwise interfere with the needs of the agency.
- (5) The employee does not utilize his office or position to obtain or continue such employment.

A public official or employee who is required in the course of official duties to make a decision or take action which would directly affect his personal financial interests or those of a member of his household or a business with which he is associated is required to provide a written statement detailing this potential conflict. That statement must be presented to his superior who will assign the matter to a person without such a conflict. In the case of a public official, he is advised to further disqualify himself from participation in votes, deliberations or other actions on which he has the potential conflict.

***** INFORMATION PROGRAM FOR CANDIDATES AND COMMITTEES

On Friday evening, March 28, 1980, a closed circuit ETV program for candidates and committees will be presented at the regional TEC centers. The program will involve discussion of the filing requirements of the State Ethics Act. Materials will be provided to meet the filing requirements. The program will be aired from 8-10 p.m. and talk-back features will be available at each center for participants to ask questions.

***** HEARING SCHEDULED FOR RULES AND REGULATIONS CHANGES

The State Ethics Commission will conduct a public hearing on Monday, February 12, 1980 at 10:00 a.m. in the Commission office to hear any comments concerning proposed rules and regulations changes. The proposed changes are amendments to existing regulations. The changes provide for filing of complaints against any person alleged to have violated the law, convening hearings consistent with time periods specified in the Administrative Procedures Act, establishing the statute of limitations, maintaining records of proceedings for a period of three years, making public disposition of all complaint actions, and to charge reasonable fees for copying files.

State of South Carolina

State Ethics Commission

DIGEST OF ADVISORY OPINIONS

January 25, 1980

No. 16

80-022

November 19, 1979

SUBJECT: MARKET MANAGER PROVIDING PUBLIC INFORMATION SERVICES

The Market Manager for a local Producers and Consumers Market, which is scheduled to come under the jurisdiction of the Department of Agriculture, provides market information to a radio and television station, a service for which he is paid. The Commission advised against such additional compensation if the public information function is a part of the employee's position responsibilities. If such public information function is not a part of the employee's position responsibilities, the outside employment guidelines would apply.

80-023

November 19, 1979

SUBJECT: POLICE OFFICER CONDUCTING BUSINESS WITH TOWN

A sandwich shop, owned by a city police officer, may provide meals to prisoners provided that the officer not involve himself in determining when or whether his business may provide such meals.

80-024

November 19, 1979

SUBJECT: MENTAL HEALTH DEPARTMENT EMPLOYEE AS CO-OWNER OF COMMUNITY CARE HOME

An employee of the Department of Mental Health may become a part-owner of a community care home which is regulated by that agency since the employee is not engaged in the regulatory function. If the employee does become associated with the home, she is required to file a Statement of Economic Interests. The Commission advised concerning the guidelines for outside business interests and the disclosure and disqualification procedures of §8-13-460.

80-025

November 19, 1979

SUBJECT: ACCEPTANCE OF HONORARIUM

An employee of the Department of Agriculture may not accept an honorarium for judging contests and exhibits which are related to his position responsibilities. A moment of the occasion of nominal value would be permitted. If such participation is not advice or assistance rendered in the course of employment and is engaged in on the employee's own time, an honorarium would not be prohibited.

80-026

November 19, 1979

SUBJECT: EMPLOYEE OF PUBLIC SERVICE COMMISSION ACCEPTING EMPLOYMENT WITH REGULATED BUSINESS

An employee of the Public Service Commission may not accept employment from a regulated business while he is associated with the regulatory agency.

80-027

January 15, 1980

SUBJECT: BUSINESS INTERESTS OF DHEC EMPLOYEE

An employee of the Department of Health and Environmental Control may own stock in a corporation which is not regulated by that agency, even though several stockholders of that corporation either work for or own stock in another corporation which is regulated. Both corporations operate from the same building. The employee was advised to refrain from utilizing confidential information or from utilizing his official position to seek financial gain.

80-028

January 15, 1980

SUBJECT: COUNCILMEN PAYING FOR REFERENDUM OUT OF PERSONAL FUNDS

It does not appear that several county councilmen would obtain personal financial gain by paying the costs of placing a referendum question on an election ballot and does not appear to be prohibited.

80-029

January 15, 1980

SUBJECT: COUNTY DEPARTMENT HEAD UTILIZING COUNTY FACILITIES FOR PRIVATE CONSULTATIONS

The head of a county department may not utilize county office space and equipment in providing private consultations to clients for personal remuneration when such facilities are not generally available to the public or to other practitioners.

80-030

January 15, 1980

SUBJECT: COMMISSIONER OF ALCOHOL AND DRUG ABUSE WITH POTENTIAL CONFLICT

A member of the Commission on Alcohol and Drug Abuse whose public relations firm has been retained by a private treatment center which is not regulated by that Commission was advised against utilizing his official position for financial gain and to follow the disclosure and disqualification procedures of §8-13-460 in situations which could result in financial gain for that center.

80-031

January 15, 1980

SUBJECT: RECEIPT OF HONORARIUM FOR SPEECH

An employee of the School for the Deaf and Blind may not accept an honorarium for presenting a speech at a regional conference if the participation occurred on normal working time.

80-032

January 15, 1980

SUBJECT: RECEIPT OF ROYALTIES BY COMMISSIONER

A member of the Arts Commission may volunteer his services to write lyrics for a musical production provided he is not involved in the decision by the Commission to accept his services and provided that he not involve himself in decisions regarding future funding or continuation of the production.

80-033

January 15, 1980

SUBJECT: JUDGE WITH OFFER TO TEACH PART-TIME AT UNIVERSITY

A judge who had been offered the opportunity to teach part-time at the University of South Carolina was advised that such work is not prohibited. Since the judge would be subject to the State Ethics Act, he was advised concerning his utilization of his official position for financial gain and to follow the disclosure and disqualification procedures of §8-13-460.

80-034

January 15, 1980

SUBJECT: COUNTY EMPLOYEE PROVIDING OFF-DUTY SERVICES TO PUBLIC AGENCY

A county employee may contract with another public agency through public notice and competitive bidding procedures to provide maintenance and upkeep services on his own time provided the off-duty employment guidelines are followed.

80-035

January 15, 1980

SUBJECT: PRT EMPLOYEE ENGAGING IN CONSULTING WORK

An employee of the Department of Parks, Recreation, and Tourism may engage in outside employment with consultants on a project funded by PRT provided the outside employment guidelines are followed. The employee was cautioned to follow the disclosure and disqualification procedures of §8-13-460 concerning his official actions in the future on matters involving any consultant with whom he may become associated.

80-036

January 15, 1980

SUBJECT: COMMISSIONER OF MENTAL HEALTH SERVING ON TREATMENT CENTER ADVISORY BOARD

The Commissioner of Mental Health may serve on the advisory board of a treatment center provided that if the service is done as an individual, it shall be consistent with the outside business interests guidelines.

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BULK RATE

State Police Commission
P. O. BOX 11827
COLUMBIA, S. C. 29211

January 15, 1980

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